



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/699,921

11/03/2003

Dennis M. Treu

T4342-14521US01

3896

21890

7590

04/28/2008

PROSKAUER ROSE LLP  
PATENT DEPARTMENT  
1585 BROADWAY  
NEW YORK, NY 10036-8299

EXAMINER

WIEST, PHILIP R

ART UNIT

PAPER NUMBER

3761

MAIL DATE

DELIVERY MODE

04/28/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/699,921	<b>Applicant(s)</b> TREU, DENNIS M.	
	<b>Examiner</b> Phil Wiest	<b>Art Unit</b> 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 2/8/08.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19-69 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-69 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 03 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 2/8/08 with respect to the one-way communication mechanism wherein the monitor is prevented from affecting the state of the treatment unit have been fully considered but they are not persuasive. As stated previously, Causey clearly shows the use of a one-way communication channel in Figure 10. Even though the data flow disclosed by figure 10 is based on one particular mode of operation, the device is fully capable of operating in this manner at any point during operation. Data processing is done by an external computer and does not involve the use of the treatment device whatsoever. This data is graphed by the computer (i.e. monitoring unit) completely separately from the treatment device 400.

Applicant's argument, with respect to the rejection(s) of claim(s) 54 under 103(a) has been fully considered and are persuasive. The previous action did not explicitly address "wherein the information output by the monitor unit excludes any real-time information obtained by the one-way communications mechanism, whereby the monitor unit information may not be used by an operator to make changes in the treatment unit's settings." A new non-final rejection is presented below to correct this deficiency.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 19-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Causey, III et al. (US 6,641,533) in view of Gilcher (US 6,113,554).

Causey, III et al. (hereafter Causey) discloses a medical treatment device that can be connected to a computer (monitor unit) 6, the system comprising a treatment unit 400, a monitor unit 6, said treatment unit 400 comprising an infusion pump that delivers a medical treatment to a patient. The treatment unit 400 comprises a control panel (see Figure 7) having user-accessible controls. The monitor unit 6 is capable of receiving data from the treatment unit 400 and sensors via a common control unit (200, 300) (Column 23, Lines 49-52) and outputting at least data relating to the status of the treatment being delivered on a display portion 12. Additionally, the monitor unit is capable of outputting a variety of treatment information including graphical information, sensor data, and data that is not shown on the treatment device. Regarding the one-way transmission of data, Causey, III et al. further discloses that the computer 6 (monitoring portion) is capable of receiving data from the treatment unit 400 via a medical device module 200 for analysis (Column 23, Lines 49-52 and Figure 10), but does not disclose the computer 6 transmits data back to the medical device module 200 (as demonstrated by the one-way arrow to the communication station in Figure 10).

Therefore, Causey, III et al. discloses a one-way communication channel between the treatment unit (400 by way of 200) and the monitoring device 6, such that the treatment machine 400 is not affected by a data-processing software being operated by the monitor device 6. Causey also disclose that the treatment unit 400 and monitor unit 6 are connected to a common control unit (200, 300) (see Figures 7 and 10). The common control panel (200, 300) is capable of controlling and receiving data from the treatment unit 400, as well as transferring said data to the monitoring unit 6. Because the monitoring unit 6 does not transmit data back to the common control unit (200, 300), as shown by the one-way arrow in Figure 10, any signals from the monitor unit 400 are prevented from affecting a state of the treatment unit 400. With respect to Claim 54, Causey further discloses that the monitor unit receives data via a one-way communication signal, and may not transmit data back to the treatment unit (Figure 10). The computer receives data that has been processed by the medical device module. Therefore, the data received by the computer is not real-time.

Causey discloses the device substantially as claimed, but does not disclose that the treatment unit and monitor unit are permanently attached together and housed within a common housing.

Gilcher et al. disclose a blood collection system comprising a housing 14 that houses a monitor unit 10 and a treatment unit 12. The housing further comprises a control panel 72. The use of a unitary construction allows the monitor unit 10 and the treatment unit 12 to be simultaneously monitored and prevents the need for wireless communication between devices. Furthermore, the use of a one-piece construction

Art Unit: 3761

instead of multiple, distinct parts is merely a matter of obvious engineering choice. See MPEP § 2144.04. Therefore, it would have been obvious to one skilled in the art at the time of medical treatment device of Causey, III et al. with the unitary housing of Gilcher et al. in order to provide a simplified unit for medical treatment that does not comprise several parts. Furthermore, Causey et al. disclose that the device was broken into components in order to improve price and upgradability, and that some devices would preferably be combined into a single device. The components that comprise the medical treatment device are more than capable of functioning as a singular unit in a common housing.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phil Wiest whose telephone number is (571)272-3235. The examiner can normally be reached on 8:30am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3761

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Phil Wiest/  
Examiner, Art Unit 3761

//Leslie R. Deak//  
Primary Examiner, Art Unit 3761  
27 April 2008